

U.S. DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

04 10165 MLW 11:52
Plaintiffs, MAGISTRATE JUDGE BOSTON DISTRICT COURT OF MASS.
v. DOCKET NO: 53364
Defendants)
)
)

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT

Petitioners-defendants, Christopher D. Vizard, Allen & Coles Moving System, and Apex Transportation Systems, respectfully petition this Court for removal of the above-entitled action to the United States District Court for the District of Massachusetts from the Superior Court of the Commonwealth of Massachusetts in and for Essex County and for its Notice of Removal states:

1. Christopher D. Vizard, Allen & Coles Moving Systems, and Apex Transportation Systems are defendants in a civil action in the Superior Court of the Commonwealth of Massachusetts in and for Essex County, entitled Alberta M. Sullivan, et al. v. Christopher D. Vizard, et al., Civil Action No. 03-2050. The defendant, Allen & Coles Moving System, received a copy of the Summons and Complaint on or about January 6, 2004. Copies of the foregoing Summons, Complaint, Civil Action Cover Sheet and Demand for Jury Trial are attached hereto as Exhibit 1.
2. The claims against the defendants are wholly civil in nature and are brought in a Massachusetts state court. Plaintiffs seek to recover damages for past, present and

future medical costs, lost wages, loss of present and future earning capacity, loss of consortium, pain and suffering, permanent disability and other damages recoverable as a result of the defendants alleged negligence. This action is pending in Essex County, Massachusetts, and accordingly, under 28 U.S.C. §§101 and 1441(a) the United States District Court for the District of Massachusetts is the proper forum for removal.

3. The Plaintiffs in this suit are citizens of the Commonwealth of Massachusetts as stated in paragraphs 1 and 2 of their Complaint. See, Exhibit 1. Defendant Christopher D. Vizard is a citizen of New Hampshire and the remaining defendants are citizens of Maine. See, Exhibit 1.
4. The sum or value of this claim as alleged by the plaintiffs will likely exceed \$75,000.00. According to the plaintiffs' civil action cover sheet they are already claiming damages in the amount of approximately \$25,000-\$30,000. See, Exhibit 1. This does not necessarily include all medical damages suffered to date, lost wages to date, future lost wages, future lost earning capacity, loss of consortium, pain and suffering, etc. as claimed by the plaintiffs in paragraphs 13, 17, 19 and 21 of their Complaint. See, Exhibit 1.
5. Pursuant to 28 U.S.C. §1332(a), which reads in relevant part, "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between... citizens of different States." See, 28 U.S.C. §§1332(a) and (a)(1).

6. This notice is filed within thirty (30) days of notice of the suit, within thirty (30) days of the date this action became removable, and within the time for filing this notice. See, 28 U.S.C. §1446.
7. The defendants will file a copy of this Notice of Removal with the Clerk of the Essex Superior Court of the Commonwealth of Massachusetts in and for Essex County and serve a copy of this Notice of Removal upon the plaintiffs. See, 28 U.S.C. §1146(d).
8. Pursuant to Local Rule 81.1(A), defendants shall request of the Clerk of the Essex Superior Court of the Commonwealth of Massachusetts, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein, and shall file the same with this Court within thirty (30) days after filing of this Notice of Removal.

WHEREFORE, petitioners-defendants, Christopher D. Vizard, Allen & Coles Moving System, and Apex Transportation Systems, pray that the above action now pending in the Superior Court of the Commonwealth of Massachusetts in and for Essex County, be removed from that Court to this United States District Court.

The Defendants,
Christopher D. Vizard,
Allen & Coles Moving Systems, and
Apex Transportation Systems
By Their Attorneys



Lee Stephen MacPhee, BBO# 312400
Ann E. Cascanett, BBO# 652776
MORRISON, MAHONEY & MILLER, LLP
250 Summer Street
Boston, MA 02210
(617)439-7500

Certificate of Service

I, Ann E. Cascanett, hereby certify that I have served a true copy of the foregoing by first class mail, postage pre-paid, upon the attorney of record for the plaintiffs as follows:

Robert C. Autieri, Esq.
Law Offices of Robert C. Autieri
Willows Professional Park
811 Turnpike Street
North Andover, MA 01845
(978) 681-0737

Dated: 1/20/04

Ann E. Cascanett
Ann E. Cascanett